



EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Information Collection Activities; Notice of Submission for OMB Review;
Comment Request

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice of information collection.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Equal Employment Opportunity Commission gives notice of its intent to submit to the Office of Management and Budget (OMB) a request for renewal of the information collection described below.

DATES: Written comments on this notice must be submitted on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments by any of the following methods- please use only one method:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions online for submitting comments.

Mail: Comments may be submitted by mail to Rachel See, Acting Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 131 M Street, NE, Washington, DC 20507.

Fax: Comments totaling six or fewer pages may be sent by fax machine to (202) 663-4114. (This is not a toll-free number.) Receipt of fax transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 663-4070 (voice) or (202) 663-4074 (TTD). (These are not toll-free telephone numbers.)

Instructions: All comments received will be posted without change to <http://www.regulations.gov>, including any personal information you provide, except as noted below. However, EEOC reserves the right to refrain from posting comments, including those that contain obscene, indecent, or profane language; that contain threats or defamatory statements; that contain hate speech directed at race, color, sex, national origin, age, religion, disability, or genetic information; or that promote or endorse services or products.

Although copies of comments received are usually also available for review at the Commission's library, given the EEOC's current 100% telework status due to the Coronavirus Disease 2019 (COVID-19) public health emergency, the Commission's library is closed until further notice. Once the Commission's library is re-opened, copies of comments received in response to this notice will be made available for viewing by appointment only at 131 M Street NE, Suite 4NW08R, Washington, DC 20507, between the hours of 9:30am and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Kathleen Oram, Assistant Legal Counsel, at (202) 921-2665 or Kathleen.Oram@eeoc.gov, or Savannah Marion Felton, Senior Attorney, at (202) 921-2671 or Savannah.Felton@eeoc.gov. Requests for this notice in an alternative format should be made to the Office of Communications and Legislative Affairs at (202) 663-4191 (voice) or 1-800-669-6820 (TTY).

SUPPLEMENTARY INFORMATION:

Introduction

The Equal Employment Opportunity Commission (EEOC or Commission) gives notice of its intent to submit the recordkeeping requirements contained in the Uniform Guidelines on Employee Selection Procedures (UGESP or Uniform Guidelines)¹ to the Office of Management and Budget (OMB) for a three-year extension without change under the Paperwork Reduction Act of 1995 (PRA).

Request for Comments

Pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, and OMB regulation 5 CFR 1320.8(d)(1), the EEOC invites public comments that will enable the agency to:

- (1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, to be collected; *e.g.*, permitting electronic submission of responses.

Overview of Current Information Collection

Collection Title: Recordkeeping Requirements of the Uniform Guidelines on Employee Selection Procedures, 29 CFR part 1607, 41 CFR part 60-3, 28 CFR part 50, 5 CFR part 300.

OMB Number: 3046-0017.

Type of Respondent: Businesses or other institutions; Federal Government; State or local governments and farms.

¹ 29 CFR, part 1607, 41 CFR part 60-3, 28 CFR part 50, 5 CFR part 300.

North American Industry Classification System (NAICS) Code: Multiple.

Standard Industrial Classification Code (SIC): Multiple.

Description of Affected Public: Any employer, Government contractor, labor organization, or employment agency covered by the Federal equal employment opportunity laws.

Respondents: 957,005.

Responses²: 957,005.

Recordkeeping Hours: 16,578,127 per year.

Number of Forms: None.

Form Number: None.

Frequency of Report: None.

ABSTRACT: The Uniform Guidelines provide fundamental guidance for all Title VII-covered employers about the use of employment selection procedures. The records addressed by UGESP are used by respondents to ensure that they are complying with Title VII and Executive Order 11246; by the Federal agencies that enforce Title VII and Executive Order 11246 to investigate, conciliate, and litigate charges of employment discrimination; and by complainants to establish violations of Federal equal employment opportunity laws. While there is no data available to quantify these benefits, the collection of accurate applicant flow data enhances each employer's ability to address any deficiencies in recruitment and selection processes, including detecting barriers to equal employment opportunity.

BURDEN STATEMENT: There are no reporting requirements associated with UGESP. The burden being estimated is the cost of collecting and storing a job applicant's gender, race, and ethnicity data.

The only paperwork burden derives from this recordkeeping. Only employers covered under Title VII and Executive Order 11246 are subject to UGESP. However, for the purposes of burden calculation, data for all employers are counted². The number of employers with 15 or more employees is estimated at 957,005 which combines estimates from private employment,³ the public sector,⁴ and referral unions.⁵ Employers with 15 or more employees represent approximately 15.3% of all employers in the U.S. and employ

² In calculating burden, data from multiple sources are used. Some of these sources do not allow us to identify only those employers who are covered by Title VII (employers with 15 or more employees).

³ Source of original data: 2017 Economic Census.

(<https://www.census.gov/content/census/en/data/datasets/2017/econ/susb/2017-susb.html>). Local Downloadable CSV data. Select U.S. & states, 6 digit NAICS. The original number of employers was adjusted to only include those with 15 or more employees.

⁴ Source of original data: 2017 Census of Governments: Employment. Individual Government Data File (<https://www.census.gov/data/tables/2017/econ/apes/annual-apes.html/>), Local Downloadable Data zip file "individual files". The original number of government entities was adjusted to only include those with 15 or more employees.

⁵ EEO-3 Reports filed by referral unions in 2018 with EEOC.

about 87.7% of all employees in the U.S.⁶

This burden assessment is based on an estimate of the number of job applications submitted to all employers in one year, including paper-based and electronic applications. The total number of job applications submitted every year to covered employers is estimated to be 1,989,375,182, based on an average of approximately 29 applications⁷ for every hire and a Bureau of Labor Statistics data estimate of 68,594,000 annual hires.⁸ This figure also includes 149,182 applicants for union membership reported on the EEO-3 form for 2018.

The employer burden associated with collecting and storing applicant demographic data is based on the following assumptions: applicants would need to be asked to provide three pieces of information -- sex, race/ethnicity, and an identification number (a total of approximately 13 keystrokes); the employer may need to transfer information received to a database either manually or electronically (although we believe it likely that many employers utilize HR software that handles employment applications as well as the rest of the employers HR needs) ; and the employer would need to store the 13 characters of information for each applicant. Recordkeeping costs and burden are assumed to be the time cost associated with entering 13 keystrokes.

Assuming that the required recordkeeping takes 30 seconds per record, and assuming a total of 1,989,375,182 paper and electronic applications per year (as calculated above), the resulting UGESP burden hours would be 16,578,127. Based on a wage rate of \$17.44⁹ per hour for the individuals entering the data, the collection and storage of applicant demographic data would come to approximately \$289,122,526 per year . We expect that the foregoing assumptions are over-inclusive, because many employers have electronic job application processes that should be able to capture applicant flow data automatically.

While the burden hours and costs for the UGESP recordkeeping requirement seem very large, the average burden per employer is relatively small. We estimate that UGESP applies to 957,005 employers, which is about 15.3% of all employers in the U.S, and who employ about 87.7% of all employees in the U.S (86.5% of private employees and 95.9% of government employees)¹⁰. Therefore, the estimated cost per covered employer is about

⁶ Source of original data: 2017 Economic Census,.

(<https://www.census.gov/content/census/en/data/datasets/2017/econ/susb/2017-susb.html>). Local Downloadable CSV data. Select U.S. & states, 6 digit NAICS; 2017 Census of Governments (<https://www.census.gov/data/tables/2017/econ/apes/annual-apes>).

⁷ The average number of applications received per job opening in 2018, according to the private career advice website Zety. (<https://zety.com/blog/hr-statistics>).

⁸ Bureau of Labor Statistics Job Openings and Labor Turnover Survey, 2018 annual level data (Not seasonally adjusted), (<http://www.bls.gov/jlt/data.htm>) is the source of the original data. The BLS figure includes new hires in both the public and the private sectors across all employer sizes. .

⁹ Based on the 10th percentile hourly wage for Human Resources Specialist in 2018 (<https://www.bls.gov/oes/2018/may/oes131071.htm>). The 10th percentile is slightly lower than the average salary for an entry-level Human Resources Specialist (<https://www.ziprecruiter.com/Salaries/Entry-Level-Human-Resources-Specialist-Salary>)

¹⁰ Source for private employees: 2017 Economic Census.

(<https://www.census.gov/content/census/en/data/datasets/2017/econ/susb/2017-susb.html>). Local Downloadable CSV data. Select U.S. & states, 6 digit NAICS. Source for public employees: 2017 Census of Governments (<https://www.census.gov/data/tables/2017/econ/apes/annual-apes>).

\$263.¹¹ Additionally, 35.0% of employees work for firms with at least 5,000 employees,¹² and it is likely the burden of entry for these firms is transferred to the applicants via use of electronic application systems. UGESP also allows for simplified recordkeeping for employers with more than 15 but less than 100 employees.¹³

For the Commission

Dated: April 20, 2021.

Charlotte A. Burrows,
Chair

[FR Doc. 2021-08549 Filed: 4/23/2021 8:45 am; Publication Date: 4/26/2021]

¹¹ This assumes that the new hires in 2018 were distributed equally across firm and agency sizes. In 2018, 64,286,000 new hires were in the private sector 86.5% of which would be 55,575,000 new hires estimated for firms with at least 15 employees. Similarly, 4,310,000 new hires were in the public sector. 95.9% of which would be 4,133,000 new hires into governments with at least 15 employees. This totals approximately 59,708,000 new hires in Title VII locations. The remainder of the burden hour calculations remain the same.

¹² Source for private employees: 2017 Economic Census.

<https://www.census.gov/content/census/en/data/datasets/2017/econ/susb/2017-susb.html>.

¹³ See 29 CFR 1607.15A(1): *Simplified recordkeeping for users with less than 100 employees*. In order to minimize recordkeeping burdens on employers who employ one hundred (100) or fewer employees, and other users not required to file EEO-1, *et seq.*, reports, such users may satisfy the requirements of this section 15 if they maintain and have available records showing, for each year: (a) The number of persons hired, promoted, and terminated for each job, by sex, and where appropriate by race and national origin; (b) The number of applicants for hire and promotion by sex and where appropriate by race and national origin; and (c) The selection procedures utilized (either standardized or not standardized).